

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CLYDE RAY SPENCER, et. al.,)	
)	
Plaintiffs,)	Case No. 3:11-cv-05424-BHS
)	
v.)	AMENDED PROPOSED JOINT
)	STATUS REPORT AND DISCOVERY
JAMES M. PETERS, et. al.,)	PLAN
)	
Defendants.)	
)	

1. This case raises issues of civil rights and malicious prosecution. There is a moderate level of complexity.

2. The FRCP 26(f) conference was held by conference call on August 24, 2011. Plaintiffs' attorneys Kathleen Zellner and Douglas Johnson discussed the case with Defense attorney Bronson Potter, who represented all defendants but Shirley Spencer at that time. Defense attorney William H. Dunn represented Shirley Spencer at the conference. In response to the complaint on file, Shirley Spencer had filed a motion to dismiss the morning of the conference. This Court denied that motion on September 29, 2011. At the time of the conference, the remaining defendants were also expected to file dispositive motions seeking to dismiss some or all of the Plaintiffs' claims. The parties discussed the fact that the State Attorney General's Office would be substituting as counsel for Defendant Peters. It was agreed

1 that any motion for default would await the substitution of counsel. In this Court's order of June
2 6, 2011, the date for initial disclosures pursuant to FRCP 26(a)(1) is set for September 27, 2011.
3 Plaintiffs served initial disclosures on September 27, 2011. Defendants Krause, Davidson, Clark
4 County Prosecutor's Office, Clark County Sheriff's Office and Clark County served their initial
5 disclosures on September 29, 2011.

6 On September 23, 2011 this Court permitted the State Attorney General's Office to
7 substitute as counsel for Defendant Peters. On September 26, 2011 Defendant James Peters
8 filed an Answer to the Complaint, Affirmative Defenses and a Jury Demand.

9 On September 28, 2011, Assistant Attorney General Patricia C. Fetterly, as counsel for
10 Defendant James Peters, sent correspondence seeking to determine whether there was any
11 objection to continuing the initial disclosures until November 15, 2011 and the date for the joint
12 status conference to December 1, 2011. There was no objection from any party. This Court
13 entered a stipulated order for extension of time to file initial disclosures, joint status conference,
14 and discovery plan on October 18, 2011 permitting James Peters to have until November 15,
15 2011 to file his initial disclosures and until December 1, 2011 to conduct the joint status
16 conference. Peters filed his initial disclosures on November 14, 2011.

17 3. The parties believe the deadline for joining additional parties should be six (6)
18 months from the filing of this order.

19 4. Mediation should be the ADR method used.

20 5. The defense attorneys have taken the position that discovery must begin before
21 settlement can be properly explored. The mediation should take place within twelve months
22 after this report is filed.

23 6.

24 a) The FRCP 26(f) conference was held by conference call on August 24,
25 2011. In this Court's order of June 6, 2011, the date for initial disclosures pursuant to FRCP
26
27

1 26(a)(1) is set for September 27, 2011. That date was extended for Defendant Peters to
2 November 15, 2011 by order of this Court dated October 18, 2011.

3 b) At this point, the parties believe that they will need discovery on both
4 liability and damage issues. Discovery should not be limited or focused on particular issues.

5 c) At this point, the parties do not propose any changes in the limitations on
6 discovery imposed by the federal and local civil rules, or any other limitations.

7 d) The parties will seek to minimize discovery expense by attempting to
8 resolve discovery issues amicably and by avoiding any unnecessary discovery.

9 e) The parties expect to present a proposed Stipulated Protective Order
10 governing the handling of confidential information.

11 7. The remainder of discovery can be completed within sixteen (16) months of the
12 filing of this report.

13 8. The parties do not consent to referral of the case to a Magistrate Judge.

14 9. Bifurcation is not appropriate.

15 10. The parties do not propose omitting the jurisdiction, admitted facts and issues of
16 law sections from the pretrial statements and pretrial order required by Local Rules CR 16 and
17 CR 16.1.

18 11. The parties do not have any suggestions for shortening or simplifying the case at
19 this time.

20 12. At this point, it is anticipated that the case will be ready for trial within nineteen
21 (19) months of the filing of this report.

22 13. A jury trial has been demanded.

23 14. At this point, it appears that twenty (20) trial days will be needed.

24 15. At this point, there are no known dates that trial counsel has complications that
25 need consideration in setting a trial date.

16. As this case will be a jury trial, it cannot be considered for designation for trial at the Federal Building in Vancouver, Washington.

17. All Defendants have been served with process.

18. Trial Counsel for Plaintiff will be Kathleen Zellner and Douglas Johnson, Kathleen T. Zellner & Associates, P.C., Esplanade IV, 1901 Butterfield Rd., Suite 650, Downers Grove, IL 60515. Trial Counsel for Defendants Clark County Sheriff's Office, Clark County Prosecutor's Office and the County of Clark will be Bronson Potter, Chief Civil Deputy, Clark County Prosecutor's Office, 604 West Evergreen, P.O. Box 5000, Vancouver WA 98666-5000. Trial Counsel for James Peters will be Patricia C. Fetterly, Daniel J. Judge and Robert McKenna of the Attorney General's Office, 7141 Cleanwater Drive SW, P.O. Box 40126, Olympia, WA 98504-0126, Trial Counsel for Shirley Spencer will be William H. Dunn, Dunn Law Office, P.O. Box 1016, 1024 NE 68th Street, Vancouver, WA 98665 and Gary Western, Wilson, Smith, Cochran, Dickerson, 901 Fifth Avenue, Suite # 1700, Seattle, WA 98164-2059. Trial Counsel for Michael Davidson will be Mr. Jeffery Freimund, Freimund, Jackson & Tardif & Benedict Garratt, PLLC, 711 Capitol Way South Ste 602, Olympia, WA 98501-1293. Trial counsel for Sharon Krause will be Guy Bogdanovich, Law Lyman Daniel Kamerrer & Bogdanovich, PO Box 11880, Olympia, WA 98508-1880.

19. No parties request a scheduling conference prior to a scheduling order being entered in the case.

Respectfully submitted this 1st day of December, 2011.

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CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2011, I electronically filed foregoing with the Clerk of the Court using the CM/ECF system which will send notification of said filing to the following:

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The following will not receive electronic notification of the filing:

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I certify that December 1, 2011, I caused a true and correct copy of the foregoing to be mailed to Robert McKenna at the above address.

DATED this 1st day of December, 2011.

s/ Daniel T. Davies